



Court File No.

**ONTARIO
SUPERIOR COURT OF JUSTICE**

Electronically issued
Délivré par voie électronique : 28-Nov-2019
Toronto

SEAN MCCANN

Plaintiff

- and -

AIRBNB INC., AIRBNB IRELAND UNLIMITED COMPANY, AIRBNB CANADA
INC., WOJCIECH STASIECZEK, ISABELLA IBRAHIM, JANE DOE #1
and JOHN DOE #1

Defendants

STATEMENT OF CLAIM

TO THE DEFENDANTS:

A LEGAL PROCEEDING HAS BEEN COMMENCED AGAINST YOU by the Plaintiff. The claim made against you is set out in the following pages.

IF YOU WISH TO DEFEND THIS PROCEEDING, you or an Ontario lawyer acting for you must prepare a Statement of Defence in Form 18A prescribed by the Rules of Civil Procedure, serve it on the Plaintiff's lawyer, or where the Plaintiff does not have a lawyer, serve it on the Plaintiff, and file it, with proof of service, in this Court Office, WITHIN TWENTY DAYS after this Statement of Claim is served upon you, if you are served in Ontario.

If you are served in another province or territory of Canada or in the United States of America, the period for serving and filing your Statement of Defence is forty days. If you are served outside Canada and the United States of America, the period is sixty days.

Instead of serving and filing a Statement of Defence, you may serve and file a Notice of Intent to Defend in Form 18B prescribed by the Rules of Civil Procedure. This will entitle you to ten more days within which to serve and file your Statement of Defence.

IF YOU FAIL TO DEFEND THIS PROCEEDING, JUDGMENT MAY BE GIVEN AGAINST YOU IN YOUR ABSENCE AND WITHOUT FURTHER NOTICE TO YOU. IF YOU WISH TO DEFEND THIS PROCEEDING BUT ARE UNABLE TO PAY LEGAL FEES, LEGAL AID MAY BE AVAILABLE TO YOU BY CONTACTING A LOCAL LEGAL AID OFFICE.

TAKE NOTICE: THIS ACTION WILL AUTOMATICALLY BE DISMISSED if it has not been set down for trial or terminated by any means within five years after the action was commenced unless otherwise ordered by the court.

Date _____

Issued by _____
Local Registrar

Address of Court Office:
393 University Avenue, 10th Floor
Toronto, Ontario
M5G 1E6

TO: AIRBNB INC.
888 Brannan Street
4th Floor
San Francisco, CA
94117

and/or

c/o Corporation Service Company
251 Little Falls Drive
Wilmington, New Castle, Delaware
19808

AND TO: AIRBNB IRELAND UNLIMITED COMPANY
The Watermaque Building
South Lotts Road
Ringsend, Dublin 4
Ireland

AND TO: AIRBNB CANADA INC.
101 College Street
Suite #120
Toronto, Ontario
M5G 1L7

AND TO: WOJCIECH STASIECZEK
4663 Dundas Street West
Toronto, Ontario
M9A 1A4

AND TO: ISABELLA IBRAHIM

AND TO: JANE DOE #1

AND TO: JOHN DOE #1

CLAIM

1. The Plaintiff claims against the Defendants for the following:
 - (a) Special damages in the sum of \$1,500,000.00;
 - (b) General and aggravated damages in the sum of \$2,500,000.00;
 - (c) Punitive and exemplary damages in the sum of \$1,000,000.00;
 - (d) Pre-judgment interest pursuant to Section 128 of the *Courts of Justice Act*, R.S.O. 1990, Chapter C.43;
 - (e) Post-judgment interest pursuant to Section 129 of the *Courts of Justice Act*, R.S.O. 1990, Chapter C.43;
 - (f) His costs of this action and applicable taxes on costs; and
 - (g) Such further and other relief as this Honourable Court deems just.

THE PARTIES

2. The Plaintiff resides in the City of Toronto, in the Province of Ontario, and at all material times was a paying guest at an “Airbnb mansion party”, located at 4663 Dundas Street West, in the City of Toronto, in the Province of Ontario (the “Premises”).

3. The Defendant, Airbnb Inc., is a corporation incorporated pursuant to the laws of the State of Delaware, with a principal place of business in the City of San Francisco, in the State of California and at all material times was responsible

for arranging and/or offering lodging and homestays as a broker and receiving commissions from each booking. They were also responsible for the safety of all the customers utilizing their online marketplace and their guests.

4. The Defendant, Airbnb Ireland Unlimited Company (also known as Airbnb Ireland UC), is a company formed pursuant to the laws of the Republic of Ireland with its registered office located in the City of Dublin, in the Country of Ireland and at all material times was responsible for Airbnb's business operations outside the United States of America and China.

5. The Defendant, Airbnb Canada Inc., is a corporation incorporated pursuant to the laws of the Province of Ontario with its registered office located in the City of Toronto, in the Province of Ontario and at all material times was responsible for Airbnb's Canadian operations.

6. The corporate relationship between the Defendants, Airbnb Inc., Airbnb Ireland Unlimited Company and Airbnb Canada Inc. (collectively "Airbnb") are within the exclusive knowledge of the Defendants themselves.

7. Airbnb conducts business activities in Canada through Airbnb Canada Inc. with offices in Toronto, Ontario and at all material times acted as a broker that

arranged and/or offered lodging, homestays and the renting of properties and living spaces, including the Premises, and was responsible for the monitoring, vetting and safety of all the customers utilizing their online marketplace and their guests.

8. The Defendant, Wojciech Stasieczek, resides in the City of Toronto, in the Province of Ontario, and at all material times was the owner of the Premises who, for profit, rented/hosted the minimally furnished Premises and was responsible for the safety of visitors/guests on the Premises.

9. The Defendants, Isabella Ibrahim and Jane Doe #1, were at all material times the occupiers of the Premises and renters of the Premises who coordinated the Airbnb mansion party, charged guests a fee to enter the party/event and were also responsible for the safety of the visitors/guests on the Premises.

10. The Defendant, John Doe #1, was at all material times a guest at the Premises who had a firearm and then opened fire in the Premises and shot the Plaintiff.

AIRBNB LISTING

11. The Defendant, Wojciech Stasieczek, used the Airbnb online platform to market his minimally furnished rental property to potential renters. Airbnb listed the Premises on its online marketplace for the purpose of renting/hosting it to various registered Airbnb users seeking lodging and homestays. The Defendant, Wojciech Stasieczek's, rental property was listed on the Defendant, Airbnb's, online platform throughout 2019.

RENTING OF THE PREMISES

12. The Defendants, Isabella Ibrahim and Jane Doe #1, rented the Premises as an Airbnb booking for the night of April 26, 2019. They used the Premises as a venue to host a for-profit mansion party. They advertised the party on social media as an "Airbnb mansion party" and they charged entry into the Premises to make a profit. They failed to have licensed security guards and an adequate number of security guards. Many of the guests, including John Doe #1, were unknown to them.

THE SHOOTING

13. In the early morning hours of Saturday, April 27, 2019, in the City of Toronto, in the Province of Ontario, the Plaintiff was a paying guest at the Premises. At the same time, the Defendants, Isabella Ibrahim and Jane Doe #1,

were coordinating the Airbnb mansion party and were located at the front entrance of the Premises greeting guests and collecting entrance fees. The Defendant, John Doe #1, was a guest at the Premises.

14. At some point in time, a gun was permitted to be brought into the Premises by John Doe #1. At approximately 12:30 a.m., John Doe #1 opened fire inside the Premises, spraying bullets throughout the house. As the Plaintiff was fleeing in panic and fear, suddenly and without warning he was shot in the right lower back/buttocks, the bullet exiting through his groin. As a result of the shooting, the Plaintiff suffered serious and permanent injuries including, but not limited to, bullet wounds in his right lower back and groin, a right pubis (pelvis) fracture, internal nerve damage and pain around the path of the bullet, psychological issues and Post-Traumatic Stress Disorder.

ALLEGATIONS OF NEGLIGENCE, ASSAULT, AND BATTERY

15. The Plaintiff states that the shooting occurred as a direct result of the negligence, assault and battery of the Defendants, the particulars of which are as follows:

A. AS TO THE NEGLIGENCE OF THE DEFENDANTS, AIRBNB INC., AIRBNB IRELAND UC and AIRBNB CANADA INC. carrying on business as AIRBNB:

- (a) They allowed the Premises to be promoted and rented through their website as a minimally furnished rental property and empty space when they knew, or ought to have known, that such minimally furnished rental properties and empty spaces were commonly used by guests/renters for parties and events where violence occurred;
- (b) They failed to vet or ask if the Premises was a minimally furnished rental property and empty space, when they knew or ought to have known, that such information was essential to the safety of its users and the guests at the Premises;
- (c) They were aware of the minimally furnished Premises and other unfurnished properties previously being rented through their website for the purpose of large house parties and events that led to incidents of violence, but they failed to prevent the properties from being rented out and/or failed to prevent the parties and events from happening;
- (d) They allowed the Defendant, Wojciech Stasieczek, to rent/host the Premises to various different users/customers on a regular basis and on multiple occasions the Premises was used for parties and large gatherings;
- (e) Given previous violent incidents and information of parties and events at the Premises and other unfurnished homes listed by Airbnb, they

failed to keep adequate records and have a system in place to monitor the use of the Premises and the profiles of the renters;

- (f) They failed to respond adequately, or at all, to notices and warnings that the Premises was being used for parties and events;
- (g) They failed to recognize and/or ignored the dangers, hazards, environment and opportunity that the Premises possessed, when they knew, or ought to have known, that these characteristics created a danger to guests visiting the Premises;
- (h) They failed to investigate, vet and conduct background checks on the Defendant, Wojciech Stasieczek, who listed and was the registered host of the Premises, and who had a registered profile with Airbnb, before adding the Premises to its roster of properties, when they knew, or ought to have known, that this created a danger to renters and guests visiting the Premises;
- (i) They failed to investigate, vet and conduct background checks on the Defendants, Isabella Ibrahim and Jane Doe #1, who rented the Premises on Airbnb and who had a registered profile with Airbnb, when they knew, or ought to have known, that this created a danger to guests visiting the Premises;
- (j) They knew or ought to have known that the Defendants, Isabella Ibrahim and Jane Doe #1, had rented other unfurnished or minimally

furnished properties through their website and had held mansion parties in their properties;

- (k) They failed to monitor the Premises and make site visits to the Premises to ensure its characteristics, space and furnishings aligned with its online Airbnb profile;
- (l) They failed to respond to complaints that the Premises was being rented and used for the purpose of throwing large mansion parties and events;
- (m) They misrepresented the Premises by deleting negative guest reviews and ignoring signs that the Premises was not fully furnished and being used for parties and events;
- (n) They failed to regularly inspect the Premises for parties and events to ensure it was kept in a safe condition for people renting it and guests using it;
- (o) They failed to communicate with and warn the hosts, renters and guests to the Premises that the property was minimally furnished and being used for parties and events;
- (p) They had prior knowledge of similar types of incidents, including shootings, occurring at properties they had rented but they failed to take steps to prevent them;

- (q) They knew, or ought to have known, that alcohol and drugs were being sold on the Premises and that this created an environment for violence and a danger to guests visiting the Premises;
- (r) They allowed the opportunity for violence and crime to occur at the Premises, including the shooting, when they allowed the minimally furnished rental property to be rented on their website;
- (s) They caused or permitted the minimally furnished Premises to be used for parties and events and to become and remain a danger and trap to the Plaintiff;
- (t) They permitted or allowed the Plaintiff to visit the Premises when they knew, or ought to have known, that the condition of the Premises made it unsafe for him to do so;
- (u) They failed to protect the renters and guests visiting their listed properties, including the Premises;
- (v) They employed incompetent employees, servants and agents who lacked the necessary skills to use proper judgment and common sense in situations involving hosts and renters using minimally furnished Airbnb properties to facilitate parties and events;
- (w) They failed to properly train and supervise their employees, servants and agents in their employment duties with respect to the vetting and

monitoring of hosts and renters and their profiles and the usage of Airbnb properties;

- (x) They permitted a pattern of conduct by their employees to continue when they knew, or ought to have known, that such conduct had allowed negligent hosts and renters with dangerous Airbnb properties in the past and would likely cause this danger in the future;
- (y) They failed to take such care as is in all the circumstances that were reasonable to see that the Plaintiff was safe while on the Premises; and
- (z) They created a situation of danger from which the Plaintiff, despite all reasonable efforts and precautions, was unable to extricate himself.

B. AS TO THE NEGLIGENCE OF THE DEFENDANT, WOJCIECH STASIECZEK:

- (a) He promoted and rented his minimally furnished rental property on the Airbnb website when he knew, or ought to have known, that such minimally furnished rental properties and empty spaces were commonly used by renters/guests for parties and events where violence occurred;
- (b) He was aware of his minimally furnished rental property previously being rented through the Airbnb website for the purpose of large

mansion parties and events that led to incidents of violence, but he failed to stop renting out the rental property and/or failed to prevent the parties and events from happening;

- (c) He knew, or ought to have known, that the renters of the Premises were using his minimally furnished rental property to throw large parties and events;
- (d) He rented/hosted the Premises to various different users/customers on a regular basis and on multiple occasions the Premises was used for parties and large gatherings;
- (e) He failed to recognize and/or ignored the dangers, hazards, environment and opportunity that the Premises possessed, when he knew, or ought to have known, that these characteristics created a danger to patrons and guests visiting the Premises;
- (f) He knew, or ought to have known, that renting his minimally furnished rental property would create a situation of danger at the Premises as violence and gun violence are common at large mansion parties and events;
- (g) He failed to investigate, vet, and conduct background checks on the Defendants, Isabella Ibrahim and Jane Doe #1, who rented the Premises on Airbnb and who had a registered profile on Airbnb, when

he knew, or ought to have known, that this created a danger to renters and guests visiting the Premises;

- (h) He knew, or ought to have known, that the Defendants, Isabella Ibrahim and Jane Doe #1, were renting the Premises to conduct a large for-profit mansion party;
- (i) He failed to respond adequately or at all, to notices, warnings and complaints that the Premises was being used for large parties and events;
- (j) He misrepresented the Premises by deleting negative guest reviews and concealing signs that the Premises was not fully furnished and being used for large parties and events;
- (k) He failed to regularly inspect the Premises for parties and events to ensure it was kept in a safe condition for people renting it and guests visiting it;
- (l) He failed to have in place adequate policies, procedures and records in order to track and monitor the use of the Premises and the profile of the renters to ensure the safety of guests on the Premises, in particular, the Plaintiff;
- (m) He knew, or ought to have known, that alcohol and drugs were being sold on the Premises and that this created an environment for violence and a danger to guests visiting the Premises;

- (n) He allowed the opportunity for violence and crime to occur at the Premises, including this shooting, when he allowed the minimally furnished rental property to be rented on the Airbnb website;
- (o) He caused or permitted the minimally furnished Premises to be used for parties and events and to become and remain a danger and trap to the Plaintiff;
- (p) He permitted or allowed the Plaintiff to visit the Premises when he knew, or ought to have known, that the condition of the Premises made it unsafe for him to do so;
- (q) He failed to take reasonable care to ensure the safety of the renters and guests visiting the Premises, including the Plaintiff;
- (r) He failed to take steps, or in the alternative, took inadequate steps to ensure the Plaintiff's safety when he knew, or ought to have known, that he was in a dangerous situation;
- (s) He knew, or ought to have known, that similar incidents had occurred in the past involving violence with guns and/or other weapons at mansion parties and events and he failed to take steps to address same;
- (t) He failed to remove the Defendants, Isabella Ibrahim and Jane Doe #1 from the Premises when he knew, or ought to have known, that they were hosting a large mansion party;

- (u) He failed to exercise due care and skill in the organization, management and supervision of the Premises;
- (v) He failed to take such care as is in all the circumstances that were reasonable to see that the Plaintiff was safe while on the Premises;
and
- (w) He created a situation of danger from which the Plaintiff, despite all reasonable efforts and precautions, was unable to extricate himself.

**C. AS TO THE NEGLIGENCE OF THE DEFENDANTS, ISABELLA IBRAHIM
and JANE DOE #1:**

- (a) They were aware of the minimally furnished Premises and other unfurnished properties being rented through Airbnb for the purpose of large house parties that led to incidents of violence, yet they continued to organize and facilitate the for-profit event;
- (b) They knew, or ought to have known, that similar incidents had occurred in the past involving violence with guns and/or other weapons at mansion parties and events and they failed to take steps to address same;
- (c) They failed to recognize and/or ignored the dangers, hazards, environment and opportunity that the Premises possessed, when they

knew, or ought to have known, that these characteristics created a danger to guests visiting the Premises;

- (d) They specifically rented the Premises through Airbnb and from the Defendant, Wojciech Stasieczek, for the purpose of throwing a for-profit mansion party;
- (e) They failed to investigate or properly vet the background of the guests attending the party at the Premises, when they knew or ought to have known, that this created a danger to other guests visiting the Premises;
- (f) They misrepresented themselves on their Airbnb profile to conceal the fact they were renting the Premises for the purpose of hosting a large for-profit mansion party;
- (g) They allowed the opportunity for violence and crime to occur at the Premises, including this shooting, through their ignorance and disregard for the impact of the minimally furnished rental property being used for and promoted as a mansion party, the lack of security, and background checks for the guests attending the Premises;
- (h) They caused or permitted the Premises to be used for a for-profit mansion party and to become and remain a danger and trap to the Plaintiff;

- (i) They permitted or allowed the Plaintiff to visit the Premises when they knew, or ought to have known, that the condition of the Premises made it unsafe for him to do so;
- (j) They failed to protect the guests visiting the Premises;
- (k) They knew, or ought to have known, that alcohol and drugs were being sold on the Premises and that this created an environment for violence and a danger to guests visiting the Premises;
- (l) They failed to take reasonable care to ensure the safety of the Plaintiff as a guest at the Premises;
- (m) They failed to have licensed security guards and/or an adequate number of security guards inside and outside the Premises given the number of guests attending and the size of the Premises;
- (n) They knew, or ought to have known, that only having unlicensed security guards at the front door of the Premises was inadequate to prevent individuals and/or guns and/or weapons from entering the Premises;
- (o) They failed to train, or in the alternative, adequately train their security staff to search for weapons and/or guns and to respond to emergency situations;
- (p) They hired security staff who were incompetent and incapable of exercising reasonable care and judgment;

- (q) They failed to instruct properly, or at all, their security staff in the proper methods and procedures to be employed in keeping the Premises safe and secure;
- (r) They failed to have in place adequate policies and procedures to ensure the safety of guests on the Premises, in particular, the Plaintiff;
- (s) They failed to take steps, or in the alternative, took inadequate steps to ensure the Plaintiff's safety when they knew, or ought to have known, that he was in a dangerous situation;
- (t) They failed to remove the Defendant, John Doe #1, from the Premises when they knew, or ought to have known, that he was unruly, aggressive and a danger to other guests;
- (u) They failed to discourage or prevent the violent conflict and confrontation between John Doe #1 and other guests;
- (v) They failed to intervene or have security intervene in the conflict between John Doe #1 and the other guests when they knew, or ought to have known, that such intervention was required to prevent the gunshots and the Plaintiff being shot;
- (w) They failed to monitor and control the admission of guests at the Premises, allowing the home to be filled over its capacity such that the security staff could not respond appropriately to the conflict and confrontation that led to the gunshots;

- (x) They permitted alcohol and drugs to be served and given to John Doe #1 and other guests, when they knew they were already intoxicated or would become intoxicated;
- (y) They failed to exercise due care and skill in the organization, management and supervision of the Premises;
- (z) At the time, their faculties of observation, perception, judgment and self-control were impaired and due to their physical and mental condition, they were incompetent to facilitate the party and provide security for the Premises;
- (aa) They voluntarily permitted themselves to arrive at such a condition, resulting from the consumption of alcoholic beverages, or the absorption of drugs that their normal faculties, perception, will and judgment were impaired to such an extent that when facilitating a party and providing security, they were a danger to themselves and all the guests, including the Plaintiff;
- (bb) They failed to take such care as is in all the circumstances that were reasonable to see that the Plaintiff was safe while on the Premises;
and
- (cc) They created a situation of danger from which the Plaintiff, despite all reasonable efforts and precautions, was unable to extricate himself.

D. AS TO THE ASSAULT, BATTERY AND NEGLIGENCE OF THE DEFENDANT, JOHN DOE #1:

- (a) He used negligent and destructive force in opening fire and shooting the Plaintiff;
- (b) At the time his faculties of observation, perception, judgment and self-control were impaired and due to his physical and mental condition, he was a risk to be a guest at the Premises;
- (c) He voluntarily permitted himself to arrive at such a condition, resulting from the consumption of alcoholic beverages, or the absorption of drugs that his normal faculties, perception, will and judgment were impaired to such an extent that when attending a party, he was a danger to himself and all the guests, including the Plaintiff;
- (d) He failed to take such care as is in all the circumstances that were reasonable to see that the Plaintiff was safe while on the Premises; and
- (e) He created a situation of danger from which the Plaintiff, despite all reasonable efforts and precautions, was unable to extricate himself.

INJURIES AND SYMPTOMS

16. As a result of the negligence of the Defendants, the Plaintiff sustained serious life-threatening injuries and psychological impairments. The injuries suffered by the Plaintiff, include, but are not limited to, the following:

- A gunshot wound to the right lower back/buttocks area requiring several stitches to close the wound;
- A bullet exit wound to the right groin area requiring several stitches to close the wound;
- Severe scarring in the area of the entry and exit wound;
- A right pubis (pelvis) fracture;
- Internal nerve damage and pain in the area around the path of the bullet;
- Numbness and internal stiffness in the area around the path of the bullet;
- Psychological issues and a fear of public places;
- Post-Traumatic Stress Disorder; and
- Numerous lacerations, abrasions and contusions and a spraining, straining and tearing of the muscles, tendons, ligaments, discs, nerves and vessels throughout his body.

17. The injuries to the Plaintiff were accompanied by headaches, dizziness, shock, anxiety, depression, cognitive difficulties, emotional trauma, chronic pain, insomnia, weakness, diminished energy and stiffness, which continue to the present and will continue in the future.

PAIN, SUFFERING, AND LOSS OF ENJOYMENT OF LIFE

18. The Plaintiff has sustained, and will continue to sustain, pain and suffering, a loss of enjoyment of life and a loss of amenities. The Plaintiff is unable to participate in those recreational, social, household, athletic, educational and employment activities to the extent to which he participated in such activities prior to the shooting.

TREATMENT AND CARE

19. As a result of the negligence of the Defendants, the Plaintiff has undergone, and will continue to undergo in the future, hospitalization, surgery, therapy, rehabilitation, attendant care, the use of specialized equipment and other forms of medical treatment and health care. In addition, the Plaintiff, has received and will continue to receive medication.

COST OF CARE

20. The Plaintiff has incurred, and will continue to incur, expenses, including expenses for hospitalization, surgery, medication, therapy, rehabilitation, attendant care, specialized equipment, medical treatment and other forms of care, the full particulars of which expenses are not within the Plaintiff's knowledge at this time.

LOSS OF HOUSEHOLD AND HOME MAINTENANCE CAPACITY

21. The Plaintiff is unable to perform household and home maintenance tasks to the extent that he was able to do so before the shooting and resultant injuries. The Plaintiff has suffered a loss of housekeeping and home maintenance capacity and will require assistance in the future to complete such tasks.

IMPACT ON EDUCATION

22. Due to the negligence of the Defendants, the Plaintiff's education has been negatively impacted and he has suffered, and will continue to suffer, a decrease in his academic grades, an increase in the number of absences and a delay in completing his post-secondary education.

LOSS OF INCOME

23. The Plaintiff has sustained a loss of income and will continue to sustain a loss of income, a loss of competitive advantage in the employment field, a loss of income earning potential and a diminution of income earning capacity.

SPECIAL DAMAGES

24. As a result of the negligence of the Defendants, the Plaintiff has suffered other pecuniary damages up to the present and will continue to suffer pecuniary damages in the future, the full particulars of which are not known at this time.

PUNITIVE, EXEMPLARY AND AGGRAVATED DAMAGES

25. By reason of the facts set out herein, and in particular the Defendants' highhanded, shocking and reckless disregard and complete lack of care for the lives and safety of others, including the Plaintiff, the Plaintiff claims punitive and/or exemplary and/or aggravated damages.

A. THE PARTICULARS OF THE HIGH-HANDED, MALICIOUS, AND REPREHENSIBLE CONDUCT OF THE DEFENDANT, AIRBNB, INCLUDE, BUT ARE NOT LIMITED TO, THE FOLLOWING:

- (a) They were aware of the minimally furnished Premises and other unfurnished properties previously being rented through their website

for the purpose of large mansion parties and events that led to incidents of violence, but they failed to prevent the properties from being rented out and/or failed to prevent the parties and events from happening;

- (b) They allowed the Defendant, Wojciech Stasieczek, to rent/host the Premises to various different users/customers on a regular basis and on multiple occasions the Premises was used for parties and large gatherings;
- (c) They failed to investigate, vet and conduct background checks on the Defendant, Wojciech Stasieczek, who listed and was the registered host of the Premises, and who had a registered profile with Airbnb, before adding the Premises to its roster of properties, when they knew, or ought to have known, that this created a danger to renters and guests visiting the Premises;
- (d) They failed to investigate, vet and conduct background checks on the Defendants, Isabella Ibrahim and Jane Doe #1, who rented the Premises on Airbnb and who had a registered profile with Airbnb, when they knew, or ought to have known, that this created a danger to guests visiting the Premises;
- (e) They knew or ought to have known that the Defendants, Isabella Ibrahim and Jane Doe #1, had rented other unfurnished or minimally

furnished properties through their website and had held mansion parties in their properties;

- (f) They failed to monitor the Premises and make site visits to the Premises to ensure its characteristics, space and furnishings aligned with its online Airbnb profile;
- (g) They failed to respond to complaints that the Premises was being rented and used for the purpose of throwing large mansion parties and events;
- (h) They misrepresented the Premises by deleting negative guest reviews and ignoring signs that the Premises was not fully furnished and being used for parties and events;
- (i) They had prior knowledge of similar types of incidents, including shootings, occurring at properties they had rented but they failed to take steps to prevent them; and
- (j) They created a situation of danger from which the Plaintiff, despite all reasonable efforts and precautions, was unable to extricate himself.

B. THE PARTICULARS OF THE HIGH-HANDED, MALICIOUS, AND REPREHENSIBLE CONDUCT OF THE DEFENDANT, WOJCIECH STASIECZEK, INCLUDE, BUT ARE NOT LIMITED TO, THE FOLLOWING:

- (a) He was aware of his minimally furnished rental property previously being rented through the Airbnb website for the purpose of large

mansion parties and events that led to incidents of violence, but he failed to stop renting out the minimally furnished rental property and/or failed to prevent the parties and events from happening;

- (b) He rented/hosted the Premises to various different users/customers on a regular basis and on multiple occasions the Premises was used for parties and large gatherings;
- (c) He failed to investigate, vet and conduct background checks on the Defendants, Isabella Ibrahim and Jane Doe #1, who rented the Premises on Airbnb and who had a registered profile on Airbnb, when he knew, or ought to have known, that this created a danger to renters and guests visiting the Premises;
- (d) He failed to respond to complaints that the Premises was being rented and used for the purpose of throwing large mansion parties and events;
- (e) He misrepresented the Premises by deleting negative guest reviews and concealing signs that the Premises was not fully furnished and being used for large parties and events;
- (f) He failed to regularly inspect the Premises for parties and events to ensure it was kept in a safe condition for people renting it and guests visiting it;

- (g) He knew, or ought to have known, that similar incidents had occurred in the past involving violence with guns and/or other weapons at mansion parties and events and he failed to take steps to address same;
- (h) He failed to remove the Defendants, Isabella Ibrahim and Jane Doe #1 when he knew, or ought to have known, that they were hosting a large mansion party; and
- (i) He created a situation of danger from which the Plaintiff, despite all reasonable efforts and precautions, was unable to extricate himself.

C. THE PARTICULARS OF THE HIGH-HANDED, MALICIOUS, AND REPREHENSIBLE CONDUCT OF THE DEFENDANTS, ISABELLA IBRAHIM AND JANE DOE #1, INCLUDE, BUT ARE NOT LIMITED TO, THE FOLLOWING:

- (a) They were aware of the minimally furnished Premises and other unfurnished properties being rented through Airbnb for the purpose of large house parties that led to incidents of violence, yet they continued to organize and facilitate the for-profit event;
- (b) They failed to investigate or properly vet the background of the guests attending the party at the Premises, when they knew or ought to have known, that this created a danger to other guests visiting the Premises;

- (c) They misrepresented themselves on their Airbnb profile to conceal the fact they were renting the Premises for the purpose of hosting a large for-profit mansion party;
- (d) They allowed the opportunity for violence and crime to occur at the Premises, including this shooting, through their ignorance and disregard for the impact of the minimally furnished rental party being used for and promoted as a mansion party, the lack of security, and background checks for the guests attending the Premises;
- (e) They failed to have licensed security guards and an adequate number of security guards inside and outside the Premises given the number of guests attending and the size of the Premises;
- (f) They failed to remove the Defendant, John Doe #1, from the Premises when they knew, or ought to have known, that he was unruly, aggressive and a danger to other guests;
- (g) They failed to discourage or prevent the violent conflict and confrontation between John Doe #1 and other guests;
- (h) They failed to intervene or have security intervene in the conflict between John Doe #1 and the other guests when they knew, or ought to have known, that such intervention was required to prevent the gunshots and the Plaintiff being shot;

- (i) They permitted alcohol and drugs to be served and given to John Doe #1 and other guests, when they knew they were already intoxicated or would become intoxicated; and
- (j) They created a situation of danger from which the Plaintiff, despite all reasonable efforts and precautions, was unable to extricate himself.

D. THE PARTICULARS OF THE HIGH-HANDED, MALICIOUS, AND REPREHENSIBLE CONDUCT OF THE DEFENDANT, JOHN DOE #1, INCLUDE, BUT ARE NOT LIMITED TO, THE FOLLOWING:

- (a) He used negligent and destructive force in opening fire and shooting the Plaintiff;
- (b) He knew or ought to have known that his conduct would cause the Plaintiff to suffer humiliation, indignity, physical, emotional and mental distress, injury and potential death; and
- (c) He created a situation of danger from which the Plaintiff, despite all reasonable efforts and precautions, was unable to extricate himself.

APPLICABLE STATUTES

26. The Plaintiff states that the Defendants are jointly and severally liable for his damages. The Plaintiff pleads and relies upon the provisions of the *Negligence Act*, R.S.O. 1990, Chapter N.1, as amended, the *Occupiers' Liability Act*, R.S.O. 1990, Chapter O.2, as amended, the *Criminal Code*, R.S.C. 1985,

Chapter C-46, as amended and the *Liquor License Act*, R.S.O. 1990, Chapter L.19, as amended.

SERVICE OUTSIDE ONTARIO

27. Service of this Statement of Claim outside Ontario is based upon the negligence set out above and the Plaintiff relies upon the provisions of Rule 17.02 of the *Rules of Civil Procedure* and in particular Rule 17.02(g) and Rule 17.02(p).

PLACE OF TRIAL

28. The Plaintiff proposes that this action be tried at the City of Toronto, in the Province of Ontario.

November , 2019

SMITIUCH INJURY LAW

Professional Corporation
3280 Bloor Street West
Suite 800
Toronto, Ontario
M8X 2X3

Michael D. Smitiuch (41039I)

Shawn Snider (77491F)

Tel.: (416) 621-1551

Fax: (416) 621-1558

Lawyers for the Plaintiff

SEAN MCCAN
Plaintiff

- and -

AIRBNB INC. et al.
Defendants

Court File No.:

ONTARIO
SUPERIOR COURT OF JUSTICE

Proceeding commenced at Toronto

STATEMENT OF CLAIM

SMITIUCH INJURY LAW
Professional Corporation
3280 Bloor Street West
Centre Tower, Suite 800
Toronto, Ontario
M8X 2X3

Michael D. Smitiuch (LSO# 41039I)
Shawn Snider (LSO# 77491F)
Tel: (416) 621-1551
Fax: (416) 621-1558

Lawyers for the Plaintiff